THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.18151 of 2002

Dated 18-07-2007

Between:
A.Sateesh Reddy.

..... PETITIONER

AND

The Prohibition & Excise Superintendent, Warangal District at Subedari, Hanamkonda, Warangal Town & another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.18151 of 2002

O R D E R:

The grievance of the petitioner herein is that on the intervening night of 18/19-10-1989, extremists had raided his arrack shop, had taken the lock and key of the almirahs at gun point, snatched away cash of Rs.20,000/- and, thereafter, had set fire thereto, and that the entire building, including movables, immovables and books of accounts, was burnt. On the very next day, when he reported to the Station House Officer, P.S.Parkal, a case in Crime No.105 of 1989 under Section 436 IPC read with Sections 25 and 27 of the Arms Act was registered and panchanama was conducted by the police on 19-10-1989. It is the petitioner's case that he had expressed his inability to continue the business and had requested the authorities to terminate the contract for running the arrack shop. Petitioner would rely on G.O.Ms.No.320 dated 10-06-2002, wherein the Government had decided to waive penal interest on the principal amount with regards the past excise arrears as a one time settlement measure where the defaulters had come forward to pay the entire principal amount within the stipulated time. Petitioner would submit that the second respondent had issued notice dated 20-07-2002 informing that he was due an amount of Rs.1,65,728/- towards principal and interest of Rs.3,57,975/- and the total amount would come to Rs.5,23,703/-.It is the case of the petitioner

that since he was in no position to carry on the business such amounts could not be recovered and that, in any event, since the matter relates to the year 1989, no action could have been taken 14 years thereafter i.e. in 2002.

While Sri B.Narayana Reddy, learned counsel for the petitioner, would emphatically contend that since a criminal case had been registered both under the Indian Penal Code and the Arms Act for the very same incident of arson, looting and theft of money at gun point, the petitioner cannot be said to have voluntarily absconded from the shop and, in such circumstances, the question of recovering the amount did not arise.

Learned Government Pleader for Prohibition and Excise, on the other hand, would place reliance on Section 20 of the Andhra Pradesh Excise Act, 1968 to contend that it is only when the District Magistrate, by notice in writing to the licensee, requires him to close the shop if any riot or any unlawful assembly has occurred in the vicinity of the shop, is the licensee entitled for proportionate refund of the license fee.

Prima facie, the said section has no application inasmuch as, the closure of the shop, in this case, was not at the behest of the District Magistrate, but for circumstances beyond the petitioner's control. In any event, the peculiar facts and circumstances of the case would necessitate the respondents examining the matter. In the light of the factual averments hereinabove, and since this Court, by order in WPMP.No.22809 of 2002 dated 20-09-2002, had granted interim stay of all further proceedings pursuant to the notice dated 20-07-2002 issued by the first

respondent, ends of justice would be met if the petitioner is permitted to submit a detailed representation in this regard to the first respondent within a period of four weeks from the date of receipt of a copy of this order and the first respondent is directed to consider the representation in accordance with law and pass appropriate orders within a period three months thereafter. Pending disposal of the representation, the interim stay granted by this Court shall continue. It is made clear that, in case the representation is not made within the aforesaid stipulated time, it is open to the authorities to proceed in accordance with law.

The Writ Petition is accordingly disposed of. No order as to costs.

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18-07-2007

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